

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the matter of)
)
Telecommunications Relay Services and) CG Docket No. 03-123
Speech-to-Speech Services for Individuals)
with Hearing and Speech Disabilities)

To: The Commission

REPLY COMMENTS ON NOTICE OF PROPOSED RULE MAKING

Hands On Video Relay Service, Inc. (“HOVRS”), by its counsel and pursuant to FCC Rule §1.401, submits its reply comments on the Notice of Proposed Rule Making in CG Docket 03-123. *See* FCC 03-112 (June 17, 2003) (hereinafter “NPRM”).

With the exception of highly technical issues relating to emergency call routing, with which HOVRS takes no further position, review of the comments filed generally shows agreement with the positions HOVRS advanced in its comments. Accordingly, HOVRS will limit its discussion to two areas of particular interest to it. The first area relates to issues of the provision of VRS to persons desiring to converse with other persons speaking Spanish. The second area relates to issues surrounding the proposed federal certification of interstate TRS providers.

I. ASL to Spanish VRS is necessary for functional equivalence.

It is apparent that substantial misunderstanding exists among the commenters with respect to the issues involving non-English TRS. That error does not appear to be shared by the NPRM, however. The error involves confusion between (1) traditional TRS or IP-Relay where one party to the conversation is fluent in English and the other party who is fluent in another language, such

as Spanish,¹ and (2) VRS where the deaf or hard of hearing person is signing in ASL and the hearing person is speaking in another language, such as Spanish. The former situation is plainly a translation service which is not compensable TRS under the *Improved TRS Order*. See *Improved TRS Order*, 15 FCC Rcd 5140 (2000) at paras. 44-46. However, as the NPRM explains, ASL is a language with a syntax and grammar of its own. NPRM at para. 112. Moreover, its modality is visual, not written or oral. Thus, not only is it an entirely different language than English or Spanish, but the very nature of VRS, makes the discussion of translation service irrelevant in the VRS context. By its very nature it is impossible to offer VRS without translating ASL to another language. The two languages most used in the United States today are English and Spanish. Thus, it is imperative for the Commission to make a distinction between traditional TRS and VRS in resolving this issue. Otherwise, those deaf and hard of hearing persons such as the children of Spanish speaking parents, using ASL as their natural language, will be unable to telecommunicate in a functionally equivalent manner with their hearing parents.

This is a particularly acute problem in the southwest. Hispanics have a higher proportion of deafness than the rest of the population. There are thus substantial numbers of Hispanic children who are deaf and who cannot learn either spoken English or Spanish. These children learn to communicate in school in ASL and this is the only way they can communicate with their parents and others. Because in many cases their parents only speak Spanish, for these children to

¹ For the purpose of this discussion it does not matter what language in which the hearing person or the deaf person is fluent as long as they are using different languages.

telecommunicate with their parents or other Spanish speaking persons, they must be able to make an ASL to Spanish VRS call. Otherwise these children are denied functional equivalency.

Several commenters, however, ignore this problem and suggest merely that translation service should not be compensated as TRS. *See, e.g.*, Verizon Comments at 12. Implicit in these comments, however, is the assumption that ASL is simply the English variant of sign language. That is untrue. ASL is the version of sign language taught to American deaf and hard of hearing persons. It is not simply a subset of English.

It is important to note that the costs of providing ASL to Spanish service are not high. HOVRS staffed to provide VRS to Spanish service, and found that it could recruit and hire qualified bilingual interpreters for a modest pay differential. From a customer service standpoint, wait times for a bilingual interpreter can be a problem, since the majority of calls a bilingual interpreter handles are ASL to English. Other costs, however, HOVRS found to be marginal, including the cost of posting information on its web site in both Spanish and English. Public demand for ASL to Spanish VRS is plainly evident. Since the Commission clarified that VRS to Spanish service is not now compensable, HOVRS has stopped offering the service, to the disappointment and complaint of many users.

In sum, limiting VRS to ASL to English calls denies functional equivalence to the largest minority population in America. That discrimination is not justified by anything in Section 225 of the Act or anything in FCC Rule Section 64.604. Indeed, it runs counter to the intent of Section 225, which is to promote equal access to the telecommunications network.

II. The Commission should adopt a five-year certification period for interstate TRS providers.

Of the parties commenting, they were unanimous in supporting a federal certification program for entities offering services such as VRS and IP-Relay which are not now susceptible to determination as intrastate or interstate traffic, and which are therefore compensated through the Interstate TRS Fund. There appear only two areas of disagreement. First, several parties supported the Commission's proposal for an annual certification requirement. *See, e.g.*, Comments of Hamilton Relay at 9. Second, Sorenson Media proposes that the Commission impose some sort of financial qualifications test for federal certification. HOVRS disagrees with both of these proposals.

As explained in our opening comments, an annual requirement to obtain federal certification would unnecessarily tax public and private resources. A five year certification requirement on the other hand would comport with the certification program applicable to the states. To the extent the Commission feels more oversight is necessary than on a five-year basis, HOVRS would have no problem with a requirement that providers certify on their annual complaint reports their continued compliance with all non-waived provisions of Section 64.604. More than this is simply regulatory overkill given the Commission's authority under 64.604 to audit providers or to call for additional information from providers at any time.

As to Sorenson's financial qualifications proposal, its lack of detail prevents any substantial analysis.² Suffice it to say, however, that the Commission's experience in administering a financial qualifications standard for broadcast and cellular applicants should give the agency pause in

² For example, Sorenson does not suggest what standard should apply. The former broadcast standard was one of "reasonable assurance." That standard generated massive amount of quibbling among applicants. The former cellular standard was that of a firm financial commitment. That standard likewise generated substantial litigation among applicants. Ultimately, the Commission abandoned any review of financial qualifications. *See, e.g.*, FCC Form 301. No discernable injury to the public interest appears to have occurred as a result.

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Certificate of Service

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